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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

WASHINGTON TOXICS COALITION;) Civ. No. C04-1998C
NORTHWEST COALITION FOR)
ALTERNATIVES TO PESTICIDES;)
NATIONAL WILDLIFE FEDERATION;)
DEFENDERS OF WILDLIFE; NATURAL) DECLARATION OF
RESOURCES DEFENSE COUNCIL;) AARON COLANGELO
CENTER FOR BIOLOGICAL DIVERSITY;)
PACIFIC COAST FEDERATION OF)
FISHERMEN'S ASSOCIATIONS;)
INSTITUTE FOR FISHERIES RESOURCES;)
and HELPING OUR PENINSULA'S)
ENVIRONMENT,)

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF)
INTERIOR; UNITED STATES)
DEPARTMENT OF FISH AND WILDLIFE)
SERVICE; UNITED STATES)
DEPARTMENT OF COMMERCE; and)
NATIONAL MARINE FISHERIES)
SERVICE,)

Defendants,

1)
and)
2)
CROPLIFE AMERICA, WASHINGTON)
3 FRIENDS OF FARMS AND FORESTS,)
WASHINGTON STATE POTATO)
4 COMMISSION, NATIONAL POTATO)
COUNCIL, WASHINGTON STATE FARM)
5 BUREAU, IDAHO FARM BUREAU)
FEDERATION OF WHEAT GROWERS,)
6 WASHINGTON GOLF COURSE)
SUPERINTENDENTS ASSOCIATION, HOP)
7 GROWERS OF WASHINGTON, AND)
WASHINGTON STATE HORTICULTURAL)
8 ASSOCIATION,)
)
9 Defendant-Intervenors.)
)

10
11 I, Aaron Colangelo, do hereby declare as follows:

12 1. I have personal knowledge of the following and could competently testify thereto
13 if called as a witness.

14 2. I am a Staff Attorney with the Natural Resources Defense Council (NRDC), and
15 have been employed in this position since 2001. NRDC maintains headquarters in New York
16 City and additional offices in Washington D.C., Los Angeles, and San Francisco. I work in
17 NRDC's public health program and focus on pesticide issues.

18 3. NRDC is a national non-profit public interest organization with over 490,000
19 members, dedicated to protecting public health and the environment. NRDC's mission statement
20 declares that "The Natural Resources Defense Council's purpose is to safeguard the Earth: its
21 people, its plants and animals, and the natural systems on which all life depends. We work to
22 restore the integrity of the elements that sustain life -- air, land and water -- and to defend
23 endangered natural places." Preventing poorly regulated and unsafe use of chemical pesticides is
24

1 part of NRDC's core mission.

2 4. NRDC's membership and staff of lawyers, scientists, and other environmental
3 specialists have a long-standing interest in improving the regulation of pesticides and other toxic
4 chemical residues in food, air, and water. NRDC seeks to ensure that pesticide regulation is
5 protective of the public health and in compliance with governing statutes. NRDC has litigated
6 major cases seeking to require the Environmental Protection Agency (EPA) to comply with its
7 legal obligations to protect the public from pesticides, and has actively participated in the
8 development, enforcement, and reform of pesticide laws and pesticide regulation for over two
9 decades.

10 5. NRDC's staff of lawyers, scientists, and other experts also has a long-standing
11 commitment to protection of threatened and endangered species and their habitat. Through
12 litigation, administrative petitions, published reports, and other advocacy efforts, NRDC works
13 to preserve America's natural heritage by protecting endangered wildlife and wild places. The
14 Endangered Species Act (ESA) is a critical tool in these efforts. The Supreme Court has
15 described the ESA as "the most comprehensive legislation for the preservation of endangered
16 species ever enacted by any nation." TVA v. Hill, 437 U.S. 153, 180 (1978).

17 6. In August 2003, NRDC sued EPA in federal court in Maryland, for failing to
18 comply with its statutory obligation to prevent jeopardy to endangered species caused by EPA's
19 continued registration of the pesticide atrazine. EPA failed to consult with the Fish and Wildlife
20 Service and NOAA Fisheries (collectively, the Services), as required by section 7(a)(2) of the
21 ESA, 16 U.S.C. § 1536(a)(2), to ensure that its registration of atrazine will not jeopardize the
22 survival and recovery of endangered amphibians, reptiles, fish, and aquatic invertebrates
23 nationwide. This lawsuit is still pending.

1 7. NRDC's members use and enjoy natural areas throughout the country for
2 recreational, scientific, aesthetic, and cultural purposes. NRDC's members derive, or, but for the
3 endangered status of listed species, would derive, recreational, scientific, aesthetic, and cultural
4 benefits from the existence in the wild of endangered sea turtles, amphibians, fish, and other
5 species through wildlife observation, study, photography, and recreation. The past, present, and
6 future enjoyment of these benefits by NRDC's members has been, is, and will continue to be
7 irreparably harmed by EPA's disregard of its statutory duties under the ESA to prevent jeopardy
8 to endangered species and their habitat caused by pesticide exposure.

9 8. On March 25, 2003, NRDC submitted comments to the EPA opposing the
10 agency's proposed rule under the counterpart regulations of the ESA to weaken protections for
11 listed species from pesticides. In particular, NRDC opposed the proposed "section 18"
12 emergency exemptions for pesticides, pointing out to EPA that it had widely approved section 18
13 exemptions as "emergencies" for such routine events as wet weather in the Pacific Northwest,
14 recurring pest outbreaks, and similar minor events.

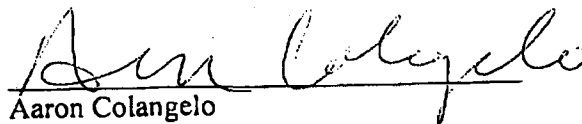
15 9. In April 2004, NRDC joined Earthjustice in its comments to NOAA Fisheries and
16 the Fish and Wildlife Service on their proposed rule under the ESA's joint counterpart
17 regulations. These comments urged the Services to abandon the proposed rule, because their
18 proposed changes violate the ESA.

19 10. The Services' actions in delegating their mandatory ESA consultation duties to
20 EPA harms the interests of NRDC and its members because it unlawfully allows the release of
21 pesticides into the environment in a manner that harms protected species and their habitat. The
22 Services unlawfully approved EPA's pesticide risk assessment method, which does not
23 adequately protect species or their habitat because it fails to account for cumulative effects and
24

1 does not consider sublethal effects that impair endangered species' abilities to resist disease and
2 predation in the wild. The Services' and EPA's new pesticide consultation rule unlawfully
3 weakens protections for listed species under the ESA and federal environmental laws.

4 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
5 and correct to the best of my knowledge.

6 Executed this 13th day of May, 2005 in Washington, DC.

7 
8 Aaron Colangelo